



# California Fair Political Practices Commission

July 27, 1989

Frank M. Crowe  
Assistant Administrator/Finance  
Del Puerto Hospital  
P.O. Box 187  
Patterson, CA 95363

Re: Your Request for Advice  
Our File No. A-89-385

Dear Mr. Crowe:

You have requested advice concerning the conflict-of-interest provisions of the Political Reform Act (the "Act").<sup>1</sup> The following advice is based upon the facts provided in your letter, as well as my telephone conversation with Ms. Pat D. Maisetti on July 7, 1989.

Our advice is limited to provisions of the Act. We cannot provide advice about other conflict-of-interest laws, such as Government Code Section 1090.

## QUESTION

Ms. Maisetti, a member of the board of directors of the Del Puerto Hospital, owns 10-percent of the stock of Stanislaus Credit Control Service, Inc. May Del Puerto Hospital retain the services of Stanislaus Credit Control Service, Inc., as its collection agency?

## CONCLUSION

The Political Reform Act does not prohibit the Del Puerto Hospital from retaining the services of Stanislaus Credit Control Service, Inc. However, the board member who owns stock in the company may not participate in any decisions concerning the Stanislaus company. You should also seek advice regarding whether this transaction is prohibited by Government Code Section 1090.

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<sup>1</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

### FACTS

Del Puerto Hospital is a nonprofit district hospital located in Patterson, California. Since it is a district hospital, it is a local government agency and the members of the board of directors are public officials.

Ms. Pat D. Maisetti, a member of the board of directors, is a stockholder of Stanislaus Credit Control Service, Inc. ("Stanislaus"), in Modesto. She owns 10-percent of the stock in this company.

Del Puerto Hospital formerly retained Stanislaus to collect its delinquent accounts. However, the hospital ceased doing business with this company because of Ms. Maisetti's ownership interest. Now the hospital would like to renew its business relationship with this company. You have inquired whether this presents any problems under the Act.

### ANALYSIS

The Political Reform Act prohibits a public official from making, participating in, or using his or her official position to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest. (Section 87100). A public official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official or a member of his immediate family or on, among other things:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

\* \* \*

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public

official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

Section 87103.

Ms. Maisetti has an investment in Stanislaus which is undoubtedly worth more than \$1,000. Stanislaus is also a source of income to her of more than \$250 a year. Therefore, Ms. Maisetti may not participate in any decision if it is reasonably foreseeable that the decision will have a material effect on Stanislaus.

In the present situation, the decision faced by the Del Puerto Hospital is whether to enter into a contract with Stanislaus. Such a decision has a reasonably foreseeable material financial effect on Stanislaus. (Regulation 18702.1, copy enclosed.)

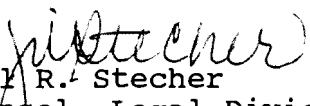
Therefore, in accordance with the Act and regulation cited, Ms. Maisetti must disqualify herself from participating in or voting on any decisions regarding contracting or doing business with Stanislaus. The Act does not preclude the Del Puerto Hospital from contracting with the Stanislaus company to do its collection work.

However, Government Code Section 1090 may prohibit Del Puerto Hospital from entering into such a contract. Since the Commission does not have jurisdiction over that provision of law, you should seek further advice from your counsel.

If you have any further questions regarding this matter, please contact me at (916) 322-5901.

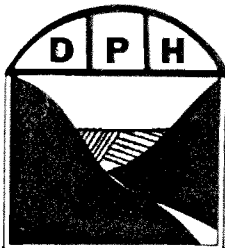
Sincerely,

Kathryn E. Donovan  
General Counsel

By:  Jill R. Stecher  
Counsel, Legal Division

KED:JRS:plh

Enclosure



# Del Puerto Hospital

Patterson's Not-For-Profit District Hospital

P.O. Box 187  
Patterson, CA 95363  
(209) 892-8781

June 27, 1989

The Fair Political Practices Board  
P.O. Box 807  
Sacramento CA 95804

JUN 27 1989

Gentlemen/Ladies:

Our Hospital has a board member who is a stockholder of the Stanislaus Credit Control Service in Modesto. We formerly were doing business with this credit agency but since our board member has an interest in this agency we have ceased assigning accounts to them.

This member has always immediately declared and abstained with a declaration of conflict on any voting issues that arose at our board meetings.

It is our inquiry with you as to whether we can return doing business with this collection agency; wherein we have experienced a diminishing of our collections by not doing business with them.

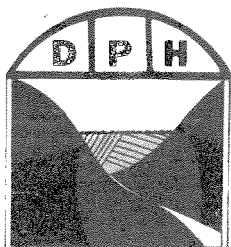
If you need any further information please feel free to call me.

We are awaiting your reply.

Thank you.

Sincerely,

Frank M. Crowe  
Ass't. Administrator/Finance



# Del Puerto Hospital

Patterson's Not-For-Profit District Hospital

P.O. Box 187  
Patterson, CA 95363  
(209) 892-8781

June 27, 1989

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P.O. Box 807  
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If you need any further information please feel free to call me.

We are awaiting your reply.

Thank you.

Sincerely,

Frank M. Crowe  
Ass't. Administrator/Finance

FMC:jck

A Public Entity Providing Health Care Services



# California Fair Political Practices Commission

July 6, 1989

Frank M. Crowe  
Assistant Administrator/Finance  
Del Puerto Hospital  
P.O. Box 187  
Patterson, CA 95363

Re: Letter No. 89-385


Dear Mr. Crowe:

Your letter requesting advice under the Political Reform Act was received on June 29, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Jill Stecher an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

  
Kathryn E. Donovan  
General Counsel

KED:plh